

**PUBLIC SERVICE COMMISSION OF WISCONSIN**

Quadrennial Planning Process III

5-FE-101

**FINAL DECISION**

This is the Final Decision regarding the adjustment of the Focus on Energy (Focus) Quadrennial III goals and the Minimum Performance Requirement (MPR) thresholds in the Statewide Energy Efficiency and Renewables Administration (SEERA) and APTIM contract.

**Introduction**

The Commission is statutorily obligated to oversee Wisconsin's statewide energy efficiency and renewable resource programs, known as Focus on Energy (Focus). Wis. Stat. § 196.374(3)(a). The Commission has overseen Focus since 2007. Under Wis. Stat. § 196.374(3)(b)1., the Commission is required to evaluate and set goals for the Focus programs as part of a Quadrennial Planning Process, among other statutorily identified tasks. On March 24, 2016, the Commission issued a Notice of Investigation for the Quadrennial Planning Process III (Quad III) docket to determine appropriate goals, priorities, and measurable targets for Focus programs in the 2019-2022 period. ([PSC REF#: 283596](#).) In its Final Decision of April 15, 2016, the Commission authorized a potential study designed to assess the amount of future energy savings that could be cost-effectively achieved through Focus' energy efficiency programs. ([PSC REF#: 284910](#).) A final potential study report was delivered to the Commission on July 27, 2017. ([PSC REF#: 328645](#)) Subsequently, in its Order of November 6, 2017, the Commission determined the issues to be included in the scope of its overall review of Commission goals, priorities, and measurable targets. ([PSC REF#: 333103](#).)

### **Findings of Fact**

1. It is reasonable and in the public interest for the Commission to adjust the Quad III goals as set forth in this Final Decision.

2. It is reasonable and in the public interest for the Commission not to adjust the Minimum Performance Requirements at this time as set forth in this Final Decision.

### **Conclusions of Law**

1. The Commission has jurisdiction under Wis. Stats. §§ 196.02, 196.374, and 196.395, and Wis. Admin Code ch. PSC 137 to set and revise goals, programs, budgets, priorities, and measureable targets for Focus and to take all other actions necessary relating to the Commission's oversight of Focus.

2. The Commission may impose any term, condition, or requirement necessary to protect the public interest pursuant to Wis. Stats. §§ 196.02, 196.374, and 196.395.

### **Opinion**

#### **Quad III Goals Considerations**

In the time since the Commission's decisions on savings goals for Quad III, Commission staff, the Focus Program Administrator (APTIM), and the Focus third-party Evaluation Contractor (Cadmus) have identified four issues for the Commission to consider related to whether it would be appropriate to adjust Quad III goals at this time.

The first issue presented is related to changes in electricity and natural gas markets since the time the 2017 potential study was conducted. These changes have impacted avoided electric and natural gas generation costs. Avoided energy costs are the largest source of benefits under the modified Total Resource Cost test (mTRC), Focus' primary cost-effectiveness test. Avoided

energy costs played a significant role in modeling the 2017 potential study's estimates of cost-effective savings potential under the business as usual (BAU) scenario. This scenario was used as the starting point for staff's proposed Quad III savings goals approved by the Commission in 2018. Updating the 2017 potential study modeling to reflect the avoided cost values applied to program evaluation during Quad III results in lower estimates of cost-effective savings potential.

Two additional issues are methodological process corrections related to how the goals were calculated in the 2018 Quad III goal setting process. However, issue number one below is also impacted by the lower avoided cost values mentioned above. These additional issues include:

- 1) A methodological error in setting the original kW goal.
- 2) Industrial process savings that were outside the 2017 potential study scope were added to the Quad III savings goal as a discrete Commission staff adjustment to the BAU scenario potential. There are two considerations related to this issue. First, a calculation error in the Quad III industrial process savings was identified. Second, staff's process in adjusting BAU scenario potential did not balance the additional savings potential with a corresponding adjustment to the baseline budget amount used to derive the 2017 potential study's BAU scenario potential.

Regarding the adjustment to Quad III savings goals, the Commission determines that it is reasonable to revise the goals based on the first three issues presented, which include the two methodological errors to be corrected (kW and Industrial Processes) as well as the updated avoided cost calculations. The Commission finds that it is appropriate for the corrected methodological errors to be reflected in the revised goals. The Commission also determines that since Focus will be evaluated using the updated avoided energy costs, it is appropriate to adjust the Quad III goals to reflect updated avoided costs.

Commissioner Nowak dissents and would not have adjusted the Quad III goals to reflect updated avoided costs.

The approved revised goals are as follows:

	<b>Gross Goals (Program Goals)</b>	<b>Net Goals (Commission Goals)</b>
Gross Electric Demand Savings (kW)	360,784	270,588
Gross Electric Life Cycle Savings (kWh)	33,909,564,245*	25,432,173,184
Gross Natural Gas Life Cycle Savings (therms)	1,670,948,583*	1,253,211,437
Gross MMBtu Life Cycle Savings	282,794,224	212,095,668

\*Figures are not adjusted to reflect minimum performance requirement thresholds by fuel.

The fourth and final issue presented was the impact of the COVID-19 pandemic on Focus program performance. The full extent of the impacts of the pandemic on the program, including shifts in customer behavior, overall economic stability, and supply chain disruptions, are not fully understood at this time. In particular, given the impacts on the Large Industrial program which historically has provided the majority of therm savings for Focus, Commission staff proposed an adjustment to the Minimum Performance Requirement (MPR) threshold by fuel type which is currently 90 percent for therms and kWh. MPR thresholds by fuel type were approved by the Commission in Quad II ([PSC REF#: 215245](#)) and Quad III ([PSC REF#: 343909](#)) in recognition that market uncertainties may impact the program administrator's ability to achieve savings for certain fuel types over the course of the quadrennial period. The MPR

thresholds allow the program administrator a degree of flexibility to adapt to changes in market conditions while maintaining cost-effectiveness with ratepayer dollars and ensuring equity between natural gas and electricity customers. The 90 percent MPR must be met in order for APTIM to be eligible for a contractual performance bonus. Failure to meet the 90 percent MPR will result in a determination that APTIM must pay a performance penalty at the end of Quad III. Alternatives were presented to reduce the MPR to 80 percent or 75 percent for both kWh and therms.

The Commission finds it reasonable to take no action at this time to adjust the Minimum Performance Requirement (MPR) threshold. The Commission recognizes that the full impacts of the pandemic are not known at this time and decided it is too early to adjust the MPR in response to those impacts.

Commissioner Huebner dissents.

Further, the Commission determines that matters concerning a potential contract bonus or penalty are appropriate for APTIM and SEERA to negotiate, as the Commission provides program and contract oversight but is not itself a party to the contract. Should SEERA and APTIM want to pursue an amendment to the contract to address the performance penalty and bonus structure, they could do so and present it to the Commission for a decision.

**ORDER**

1. The Quad III goals are adjusted as reflected in the Opinion section of this Order.
2. SEERA and APTIM are not required to adjust the Minimum Performance Requirements in the current contract (docket number 9501-FE-123) at this time but may negotiate and propose such adjustments for Commission approval as appropriate.

Dated at Madison, Wisconsin, the 21<sup>st</sup> day of October, 2021.

By the Commission:

A handwritten signature in black ink that reads "Steffany Powell Coker". The signature is written in a cursive, flowing style.

Steffany Powell Coker  
Secretary to the Commission

SPC:KN:TK:JP:JS:kle:jac DL:01835591

See attached Notice of Rights

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**NOTICE OF RIGHTS FOR REHEARING OR JUDICIAL REVIEW, THE  
TIMES ALLOWED FOR EACH, AND THE IDENTIFICATION OF THE  
PARTY TO BE NAMED AS RESPONDENT**

The following notice is served on you as part of the Commission's written decision. This general notice is for the purpose of ensuring compliance with Wis. Stat. § 227.48(2), and does not constitute a conclusion or admission that any particular party or person is necessarily aggrieved or that any particular decision or order is final or judicially reviewable.

*PETITION FOR REHEARING*

If this decision is an order following a contested case proceeding as defined in Wis. Stat. § 227.01(3), a person aggrieved by the decision has a right to petition the Commission for rehearing within 20 days of the date of service of this decision, as provided in Wis. Stat. § 227.49. The date of service is shown on the first page. If there is no date on the first page, the date of service is shown immediately above the signature line. The petition for rehearing must be filed with the Public Service Commission of Wisconsin and served on the parties. An appeal of this decision may also be taken directly to circuit court through the filing of a petition for judicial review. It is not necessary to first petition for rehearing.

*PETITION FOR JUDICIAL REVIEW*

A person aggrieved by this decision has a right to petition for judicial review as provided in Wis. Stat. § 227.53. In a contested case, the petition must be filed in circuit court and served upon the Public Service Commission of Wisconsin within 30 days of the date of service of this decision if there has been no petition for rehearing. If a timely petition for rehearing has been filed, the petition for judicial review must be filed within 30 days of the date of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition of the petition for rehearing by operation of law pursuant to Wis. Stat. § 227.49(5), whichever is sooner. If an *untimely* petition for rehearing is filed, the 30-day period to petition for judicial review commences the date the Commission serves its original decision.<sup>1</sup> The Public Service Commission of Wisconsin must be named as respondent in the petition for judicial review.

If this decision is an order denying rehearing, a person aggrieved who wishes to appeal must seek judicial review rather than rehearing. A second petition for rehearing is not permitted.

Revised: March 27, 2013

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<sup>1</sup> See *Currier v. Wisconsin Dep't of Revenue*, 2006 WI App 12, 288 Wis. 2d 693, 709 N.W.2d 520.